

STATE OF CONNECTICUT
DEPARTMENT OF SOCIAL SERVICES
OFFICE OF LEGAL COUNSEL, REGULATIONS, AND ADMINISTRATIVE HEARINGS
55 FARMINGTON AVENUE
HARTFORD, CT 06105-3725

██████████ 2016
Signature Confirmation

Client ID # ██████████
Request # 747492

NOTICE OF DECISION

PARTY

██████████
Re: ██████████
██████████
██████████

PROCEDURAL BACKGROUND

On ██████████ 2015, BeneCare Dental Plans (“BeneCare”) sent ██████████ (the “Appellant”) a notice of action (“NOA”) denying a request for prior authorization of orthodontic treatment for ██████████, her minor child, indicating that the severity of ██████████ malocclusion did not meet the medical necessity requirement to approve the proposed treatment.

On ██████████ 2016, the Appellant requested an administrative hearing to contest the Department’s denial of prior authorization of orthodontia.

On ██████████ 2016, the Office of Legal Counsel, Regulations, and Administrative Hearings (“OLCRAH”) issued a Notice scheduling the administrative hearing for ██████████ 2016.

On ██████████ 2016, in accordance with sections 17b-60, 17b-61 and 4-176e to 4-189, inclusive, of the Connecticut General Statutes, OLCRAH held an administrative hearing.

The following individuals were present at the hearing:

██████████ Appellant
Kate Nadeau, BeneCare’s representative
Dr. Brett Zanger, BeneCare’s Dental Consultant, via telephone
James Hinckley, Hearing Officer

The hearing record was held open for BeneCare to consider additional evidence submitted by the Appellant. On [REDACTED] 2016, the hearing record closed.

STATEMENT OF THE ISSUE

The issue is whether BeneCare's denial of prior authorization to complete orthodontic services for [REDACTED] as not medically necessary was in accordance with state statute and regulations.

FINDINGS OF FACT

1. The Appellant is the mother of the minor child, [REDACTED]. (Hearing Record)
2. [REDACTED] is 10 years old (D.O.B. [REDACTED]/2006) and is a participant in the Medicaid program, as administered by the Department of Social Services (the "Department"). (Hearing Record)
3. BeneCare is the Department's contractor for reviewing dental providers' requests for prior authorization of orthodontic treatment. (Hearing Record)
4. [REDACTED] Orthodontics is [REDACTED] treating orthodontist (the "treating orthodontist"). (Ex. 1: Prior Authorization Claim Form)
5. On [REDACTED] 2015, the treating orthodontist requested prior authorization to complete comprehensive orthodontic treatment for [REDACTED] (Summary, Ex. 1)
6. On [REDACTED] 2015, BeneCare received from the treating orthodontist a *Preliminary Handicapping Malocclusion Assessment Record* with a score of 29 points, dental models and panoramic x-ray films of [REDACTED] mouth. The treating orthodontist did not note the presence of severe deviations affecting the mouth and underlying structures. The treating orthodontist commented, "Needs interceptive trt (treatment) now to develop arches and grow mandible pre-growth spurt". (Ex. 2: Preliminary Handicapping Malocclusion Assessment Record, Summary)
7. Interceptiv treatment is a method whereby orthodontic treatment is completed in phases, with "phase one" treatment being performed at an earlier age, before dentition has fully matured, the objective of the method being that the overall treatment will be more effective if completed in phases. (Dr. Zanger's testimony)
8. At age 10, [REDACTED] dentition is not yet fully mature. All of her adult teeth have not yet fully erupted into their permanent positions in her mouth, and she may undergo additional growth of her upper and lower jaws. (Dr. Zanger's testimony)

9. Children differ as to when their dentition matures, but [REDACTED] dentition would probably be expected to fully mature in about two years. (Dr. Zanger's testimony)
10. On [REDACTED] 2015, Robert Gange, D.D.S., a BeneCare orthodontic dental consultant, independently reviewed [REDACTED] models and panoramic radiographs, and arrived at a score of 20 points on a completed *Preliminary Handicapping Malocclusion Assessment Record*. Dr. Gange did not note the presence of any severe deviations affecting the mouth and underlying structures. (Ex. 3: Preliminary Handicapping Malocclusion Assessment Record)
11. On [REDACTED] 2015, BeneCare denied the treating orthodontist's request for prior authorization for orthodontic services for the reason that the scoring of [REDACTED] mouth was less than the 26 points required for coverage and there was no additional substantial information about the presence of severe deviations affecting the mouth and underlying structures that if left untreated would cause irreversible damage to the teeth and underlying structures, or evidence that a diagnostic evaluation had been done by a licensed child psychologist or a licensed child psychiatrist indicating that the dental condition is related to a severe mental health condition and that orthodontic treatment would significantly improve the mental health problems. (Ex. 4: Notice of Action for Denied Services)
12. On [REDACTED] 2016, the Department received the Appellant's request for an administrative hearing. (Ex. 5: Appeal and Administrative Hearing request form)
13. On [REDACTED] [REDACTED] 2016, Geoffrey Drawbridge, D.D.S., another BeneCare orthodontic dental consultant, conducted an appeal review of [REDACTED] models and panoramic radiographs and arrived at a score of 23 points on a completed *Preliminary Handicapping Malocclusion Assessment Record*. Dr. Drawbridge found that there was no presence of severe deviations affecting the mouth and underlying structures. Dr. Drawbridge's assessment concluded that the proposed treatment should not be approved, and he commented, "Re-submit with dental development". (Ex. 6: Preliminary Handicapping Malocclusion Assessment Record)
14. On [REDACTED] 2016, BeneCare notified the Appellant that an appeal review had been conducted that determined orthodontic treatment is not medically necessary for [REDACTED] (Ex. 7: Appeal Review Decision Letter)
15. [REDACTED] has reported to her mother that she experiences some pain related to her lower front teeth contacting her upper palate; [REDACTED] has not experienced any bleeding or other problems related to this condition. (Appellant's testimony)
16. The problem complained of by [REDACTED] in Fact #15 would have to be related to overbite of her lower front teeth, #24 and #25, where the teeth actually make

contact with her palate. Pain related to such a condition would be unusual and unexpected, because the back molars contact each other when biting down and would prevent the lower front teeth from impinging on the upper palate to any great degree; in the history of his dental practice, Dr. Zanger cannot recall ever treating a patient with such reported pain. (Dr. Zanger's testimony, Ex. 2, Ex. 3, Ex.6)

17. Besides the discomfort reported in fact #15, [REDACTED] has no medical problems that are related to the condition of her teeth. (Appellant testimony)
18. [REDACTED] has never been diagnosed by a psychiatrist or psychologist with any mental disorder classified in the Diagnostic and Statistical Manual of Mental Disorders of the American Psychiatric Association (the "DSM"), and is not being treated for any mental health condition. (Appellant testimony)
19. Dental models provide the best and most accurate way to determine the presence of conditions such as crossbite (when opposing top and bottom teeth are misaligned in relation to each other, either outward toward the cheek or inward toward the tongue), because the upper and lower models can be properly aligned with each other in a way that accurately represents the actual bite. In contrast, photographs are less accurate because the jaw is moveable from side to side, and an individual's jaw position at the time the photograph was taken can create a false impression of the actual bite. (Dr. Zanger's testimony commenting on the Appellant's photographic evidence of [REDACTED] bite [next referred to as Appellant's exhibit A])
20. On [REDACTED] 2016, Geoffrey Drawbridge, D.D.S., a BeneCare orthodontic dental consultant, considered additional photographic evidence submitted by the Appellant on the day of the hearing and commented that the supplemental photographic records support the findings of his initial assessment scoring 23 points based on examination of the models and panorex. (Appellant's Ex. A: Dental Photographs of [REDACTED] taken by Mystic Westerly Orthodontics, Ex. 9: Response from Dr. Drawbridge after assessment of the photographs)

CONCLUSIONS OF LAW

1. Connecticut General Statutes §17b-262 provides that the Department may make such regulations as are necessary to administer the medical assistance program.
2. Connecticut Agencies Regulations §17-134d-35(a) provides that orthodontic services provided for individuals less than 21 years of age will be paid for when provided by a qualified dentist and deemed medically necessary as described in these regulations.
3. Connecticut General Statutes §17b-259b provides (a) For purposes of the administration of the medical assistance programs by the Department of Social

Services, "medically necessary" and "medical necessity" mean those health services required to prevent, identify, diagnose, treat, rehabilitate or ameliorate an individual's medical condition, including mental illness, or its effects, in order to attain or maintain the individual's achievable health and independent functioning provided such services are: (1) Consistent with generally-accepted standards of medical practice that are defined as standards that are based on (A) credible scientific evidence published in peer-reviewed medical literature that is generally recognized by the relevant medical community, (B) recommendations of a physician-specialty society, (C) the views of physicians practicing in relevant clinical areas, and (D) any other relevant factors; (2) clinically appropriate in terms of type, frequency, timing, site, extent and duration and considered effective for the individual's illness, injury or disease; (3) not primarily for the convenience of the individual, the individual's health care provider or other health care providers; (4) not more costly than an alternative service or sequence of services at least as likely to produce equivalent therapeutic or diagnostic results as to the diagnosis or treatment of the individual's illness, injury or disease; and (5) based on an assessment of the individual and his or her medical condition.

4. Connecticut Agencies Regulations §17-134d-35(f) provides that the study models submitted for prior authorization must clearly show the occlusal deviations and support the total point score of the preliminary assessment.
5. Public Act 15-5 (June Sp. Session, section 390) provides that the Department of Social Services shall cover orthodontic services for a Medicaid recipient under twenty-one years of age when the Salzmann Handicapping Malocclusion Index indicates a correctly scored assessment for the recipient of twenty-six points or greater, subject to prior authorization requirements. If a recipient's score on the Salzmann Handicapping Malocclusion Index is less than twenty-six points, the Department of Social Services shall consider additional substantive information when determining the need for orthodontic services, including (1) documentation of the presence of other severe deviations affecting the oral facial structures; and (2) the presence of severe mental, emotional or behavioral problems or disturbances, as defined in the most current edition of the Diagnostic and Statistical Manual of Mental Disorders, published by the American Psychiatric Association, that affects the individual's daily functioning.
7. ██████████ study models submitted for prior authorization did not show the occlusal deviations necessary to support a 26 point score on the preliminary assessment.
8. BeneCare was correct to find that ██████████ malocclusion did not meet the criteria for severity, or 26 points, as established in state statute.
9. ██████████ study models and panoramic radiographs submitted for prior authorization did not show severe deviations affecting the oral facial structures.

10. [REDACTED] has not been diagnosed by a child psychologist or child psychiatrist with a severe condition defined in the DSM which would be significantly helped by orthodontic treatment.
10. BeneCare was correct to find that there is no substantive information regarding the presence of severe deviations affecting the oral facial structures, or regarding the presence of severe mental, emotional or behavioral problems or disturbances, which must be considered in determining the need for orthodontic services for [REDACTED]
11. BeneCare was correct to deny prior authorization because [REDACTED] did not meet the medical necessity criteria for orthodontic services, in accordance with state statute and regulations.

DISCUSSION

The Department uses a standardized assessment to determine whether orthodontic treatment is medically necessary for children under the age of 21. Using the assessment, all of the adult teeth in the mouth are scored and assigned points for problems that may exist, and the total point score is used to measure of the overall severity of the dental condition. When a properly scored assessment results in a score of 26 points or greater, orthodontic treatment is considered medically necessary because the severity of the condition would be expected to significantly interfere with dental health and function. When the total score on the assessment is less than 26 points the Department also considers whether orthodontic services are needed because of the presence of severe deviations affecting the oral facial structures, or because a severe condition has been diagnosed by a child psychologist or child psychiatrist which would be significantly helped by orthodontic treatment.

Two of three orthodontists who assessed [REDACTED] mouth determined that the malocclusion of her teeth did not qualify for a score of 26 points or greater, and there is no evidence that [REDACTED] has any severe deviation affecting her mouth or any serious mental health condition that would be helped by orthodontic treatment.

The Appellant may choose to have [REDACTED] reassessed after her dental development is complete, as suggested by Dr. Drawbridge.

DECISION

The Appellant's appeal is **DENIED**.

James Hinckley

James Hinckley
Hearing Officer

cc: Diane D'Ambrosio, Connecticut Dental Health Partnership
Rita LaRosa, Connecticut Dental Health Partnership

RIGHT TO REQUEST RECONSIDERATION

The appellant has the right to file a written reconsideration request within **15** days of the mailing date of the decision on the grounds there was an error of fact or law, new evidence has been discovered or other good cause exists. If the request for reconsideration is granted, the appellant will be notified within 25 days of the request date. No response within **25** days means that the request for reconsideration has been denied. The right to request a reconsideration is based on §4-181a(a) of the Connecticut General Statutes.

Reconsideration requests should include specific grounds for the request: for example, indicate what error of fact or law, what new evidence, or what other good cause exists.

Reconsideration requests should be sent to: Department of Social Services, Director, Office of Legal Counsel, Regulations, and Administrative Hearings, 55 Farmington Avenue, Hartford, CT 06105.

RIGHT TO APPEAL

The appellant has the right to appeal this decision to Superior Court within 45 days of the mailing of this decision, or 45 days after the agency denies a petition for reconsideration of this decision, provided that the petition for reconsideration was filed timely with the Department. The right to appeal is based on §4-183 of the Connecticut General Statutes. To appeal, a petition must be filed at Superior Court. A copy of the petition must be served upon the Office of the Attorney General, 55 Elm Street, Hartford, CT 06106 or the Commissioner of the Department of Social Services, 55 Farmington Avenue, Hartford, CT 06105. A copy of the petition must also be served on all parties to the hearing.

The **45** day appeal period may be extended in certain instances if there is good cause. The extension request must be filed with the Commissioner of the Department of Social Services in writing no later than **90** days from the mailing of the decision. Good cause circumstances are evaluated by the Commissioner or his designee in accordance with §17b-61 of the Connecticut General Statutes. The Agency's decision to grant an extension is final and is not subject to review or appeal.

The appeal should be filed with the clerk of the Superior Court in the Judicial District of New Britain or the Judicial District in which the appellant resides.